

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Dhadesugoor R. Vaman et al.
Application No. : 09/847,039
Filed : May 1, 2001
For : METHOD AND APPARATUS FOR PROVIDING END-TO-END
LEVEL OF SERVICE IN MULTIPLE TRANSPORT
PROTOCOL ENVIRONMENTS (As Amended)

Examiner : Jeffrey R. Swearingen
Art Unit : 2145
Docket No. : 67742-15
Date : May 23, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents:

In response to the Restriction Requirement dated April 30, 2007, the applicants hereby elect Group I, claims 1-6, 10-11, and 13-17, for examination at this time. The election is made with traverse.

The same Examiner issued a Restriction dated April 3, 2006. In that Restriction, the Examiner noted that claims 1-6 and 10-28 were drawn to "determining the availability of PVC and SVC connections and establishing connections, classified in class 709, subclass 227." (See Office Action of April 3, 2006, page 2.) Although independent claims 1, 10, 18, and 23 have been amended since that initial restriction, many of the elements introduced by amendment are similar in each of the independent claims.

In the present restriction, the Examiner asserts that claims 1-6, 10, 11, and 13-17 are "drawn to the implementation of a Quality of Service profiling system, classified in class 709, subclass 228." (See Office Action dated April 30, 2007, page 2.) The language regarding Quality of Service profiling was included in claims 1 and 10 as originally filed on May 1, 2001. The applicants respectfully submit that it would be an undue burden on the applicants to impose a restriction after six years of prosecution and numerous office actions.

The present restriction also asserts that claims 18-28 are “drawn to detection of availability of a connection, classified in class 709, subclass 224.” (See Office Action dated April 30, 2007, page 2.) However, it should be noted that independent claims 1 and 10 both include language regarding the availability of a connection. For example, claim 1 recites *inter alia* “determining availability of PVC connections and SVC connections at the server.” Similarly, claim 10 recites *inter alia* formulating connection responses “indicating multiple connection availability comprising PVC connection availability and SVC connection availability.” Thus, all claims are directed to the detection of connection availability. The applicants believe that all claims are more appropriately drawn to class 709, subclass 224.

Furthermore, the current restriction states that the examination of allegedly distinct inventions “would be a serious burden on the examiner if restriction is not required.” However, the applicants note that the Examiner has already examined these very claims. In an Office Action dated November 30, 2006, the Examiner rejected all claims under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,999,532 to Terasaki combined with U.S. Patent No. 6,055,239 to Kato. Thus, it is not an undue burden for the Examiner who has already examined all claims pending in the application. It is noted that the amendment filed on March 3, 2007 along with the Request for Continued Examination contains only a minor amendment to claims 1 and 10. The other independent claims (claims 18 and 23) are unamended. In light of the previous examination of the claims and the undue burden on the applicants to file yet another divisional application, the applicants respectfully traverse the restriction and request examination of all pending claims.

Respectfully submitted,
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